

Remarks

Claims 1-20 are pending in the application.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fortuna (US 6,778,833, hereinafter "Fortuna") in view of Chennakeshu (U.S. 6,091,936, hereinafter "Chennakeshu").

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the

original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 103

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fortuna in view of Chennakeshu. The rejection is traversed.

According to MPEP §2143, to establish a *prima facie* case of obviousness under §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Office Action failed to establish a *prima facie* case of obviousness, because the combination of Fortuna and Chennakeshu fails to teach or suggest all the claim elements. In particular, Fortuna and Chennakeshu fail to teach or suggest at least the claim limitation “determining a **minimum delay** offset between pseudorandom number offsets that will avoid signal collision when the pseudorandom number offsets are assigned to adjacent sectors of the same cell” as positively recited in independent claim 1. The Office Action suggests this limitation is taught by Fortuna Figures 1-2 and col. 2, line 49 through col. 3, line 49. The Applicant respectfully disagrees.

Fortuna discloses the assignment of sector identifiers to respective sectors such that they “are **as far apart as possible**...with **as much space as possible** between sectors with the same PN offset number” (col. 3, lines 44-47, emphasis added). Assigning sector numbers that are “**as far apart as possible**” and/or respectively with “**as much space as possible**” does not disclose, but instead **teaches away** from the claimed “determining a **minimum** delay offset between pseudorandom number offsets...”

The Office Action has put forth no argument to suggest that Chennakeshu supplies that which is missing from Fortuna to teach or suggest the claimed “determining

a minimum delay offset between pseudorandom number offsets that will avoid signal collision when the pseudorandom number offsets are assigned to adjacent sectors of the same cell.” The Applicant also respectfully submits that Chennaskeu does not do so either, and as such, fails to bridge the substantial gap between Fortuna and the Applicant’s invention recited in independent claim 1.

Therefore, Applicant’s independent claim 1 is allowable over Fortuna in view of Chennakeshu under 35 U.S.C. 103(a). Independent claim 13 recites relevant limitations similar to those recited in independent claim 1. As such, for at least the same reasons discussed above, independent claim 13 also is allowable over Fortuna in view of Chennakeshu under 35 U.S.C. 103(a). Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Fortuna in view of Chennakeshu. under 35 U.S.C. 103.

The Examiner is respectfully requested to withdraw the rejection.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808